

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

WALTER RAGLIN,

Petitioner,

-vs-

BETTY MITCHELL, Warden,

Respondent.

:

Case No. 1:00-cv-767

:

District Judge Walter Herbert Rice
Chief Magistrate Judge Michael R. Merz

:

ORDER WITHDRAWING REPORT AND RECOMMENDATIONS

This capital habeas corpus case is before the Court on Respondent's objections (captioned "Appeal of Magistrate Judge Decision"; Doc. No. 82) to the Report and Recommendations (Doc. No. 77) recommending Respondent's Motion to Dismiss on statute of limitations grounds be denied. The General Order of Reference for the Dayton location of court permits the Magistrate Judge to reconsider decisions or reports and recommendations when objections are filed.

In light of the pendency of *Mayle v. Felix*, 125 S. Ct. 824 (2005), which involves the question whether amendments to habeas petitions relate back to the date of the original filing, and the fact that this case will be argued before the Supreme Court within the next two weeks, the Report and Recommendations were premature and are hereby WITHDRAWN to await the Supreme Court's decision.

This withdrawal does not affect the Scheduling Order issued April 4, 2005.

April 7, 2005.

s/ **Michael R. Merz**
Chief United States Magistrate Judge